रजिस्ट्री सं० डी०एल०-33004/93 REGISTERED No. DL-33004/93

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 49] नई दिल्ली, सोमवार, दिसम्बर 6, 1993/अग्रहायण 15, 1915
No. 49] NEW DELHI, MONDAY, DECEMBER 6, 1993/AGRAHANYA 15, 1915

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 6th December, 1993:—

BILL No. LXXVIII OF 1993

A Bill further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be colled the Merchant Shipping (Amendment) Act, 1993.

(*2*) It shall be deemed to have come into force on the 27th day of October, 1993.

Amendment of section 21.

44 of 1958.

2. In section 21 of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), for clauses (*b*) and (*c*), the following clauses shall be substituted, namely:—

"(*b*) a company or a body established by or under any Central or State Act which has its principal place of business in India; or

(*c*) a co-operative society which is registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law relating to co-operative societies for the time being in force in any State.".

2 of 1912.

Amendment of section 42.

3. In section 42 of the principal Act,—

(*i*) in sub-section (*1*), after the words "interest therein", the words "at any time during which the security of India or of any part of the territory thereof s threatened by war or external aggression" and during which a Proclamation of Emergency issued under clause (1) of article 352 of the Constitution is in operation shall be inserted;

(*ii*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) No transfer or acquisition of any Indian ship shall be valid unless—

(*a*) all wages and other amounts due to seamen in connection with their employment on that ship have been paid in accordance with the provisions of this Act;

(*b*) the owner of the ship has given notice of such transfer or acquisition of the ship to the Director General.".

Amendment of section 45.

4. In section 45 of the principal Act, in sub-section (*2*), for the words "company or any co-operative society", the words "company or body or co-operative society" shall be substituted.

Substitution of new section for section 51.

5. For section 51 of the principal Act, the following section shall be substituted, namely:—

Rights of mortgage.

"51. (*1*) Where there is only one registered mortgagee of a ship or share, he shall be entitled to recover the amount due under the mortgage by selling the mortgaged ship or share without approaching the High Court:

Provided that nothing contained in this sub-section shall prevent the mortgagee from recovering the amount so due in the High Court as provided in sub-section (*2*).

(*2*) Where there are two more registered mortgagees of a ship or share they shall be entitled to recover the amount due under the mortgage in the High Court, and when passing a decree or thereafter the High Court may direct that the mortgaged ship or share be sold in execution of the decree.

(*3*) Every registered mortgagee of a ship or share who intends to recover the amount due under the mortgage by selling the mortgaged ship or share under sub-section (*1*) shall give an advance notice of fifteen days relating to such sale to the registrar of the ship's port of registry.

(*4*) The notice under sub-section (*3*) shall be accompanied with the proof of payment of the wages and other amounts referred to in clause (*a*) of sub-section (*2A*) of section 42.".

Omission of section 412.

6. Section 412 of the principal Act shall be omitted.

Amendment of section 414.

7. In section 414 of the principal Act, in sub-section (*2*), clauses (*b*) and (*c*) shall be omitted.

Ord. 34 of 1993.

Repeal and saving.

8. (*1*) The Merchant Shipping (Amendment) Ordinance, 1993 is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

One of the objectives of the Merchant Shipping Act, 1958 is to foster the development and ensure the efficient maintenance of an Indian Mercantile Marine in a manner best suited to serve the national interests. The National Shipping Policy also envisages the country's increasing self-reliance in the carriage of country's overseas trade.

2. In the year 1990-91, the overall share of the Indian ships in the total overseas trade was estimated around 36 per cent. During the year 1991-92, this figure came down to the level of around 30 per cent. During the year 1990-91 65 per cent. of the sea borne trade was carried out by foreign lines and for the year 1991-92 figures were almost the same as in the preceding year. The net operative tonnage of the country consisted of 418 ships aggregating to 60,27,097 GRT as on 31-12-1990 and the corresponding figures as on 31-12-1991 slipped to 415 ships aggregating to 59,38,821 GRT. The net operative tonnage has slightly improved as on 31-12-1992 and consisted of 430 ships with a total tonnage of 62,75,475 GRT. From the figures mentioned above it appears that the main objectives of the Merchant Shipping Act, 1958 as well as that of the shipping policy are not being achieved. There is, therefore, an imperative need to reverse this trend. For this purpose appropriate strategies have to be adopted and translated in the legal framework.

3. Development of shipping in India involves expenditure in foreign exchange as the country has to import vessels to meet bulk of its requirements. In view of the present acute scarcity of foreign exchange, Indian companies intending to acquire ships, either new or second hand, from abroad are encountering serious difficulties in the matter of raising funds in foreign currency from international banks and in obtaining yard credits. There are certain provisions in the Marchant Shipping Act, 1958 with regard to registration, transfer of ships and rights of mortgagees which are perceived by foreign funding agencies as impediments to the enforcement of the rights of the lenders in case of loan defaults and consequent requirements to foreclose the mortgage. The said provisions of the Merchant Shipping Act are also not conducive to attracting foreign investments in the field of shipping and are not in consonance with the recently announced Government policies.

4. The shipping industry has, therefore, been requesting for amendments in sections 21, 42, 51 and 412 of the Act on priority basis as any delay in the said amendments was expected to further jeopardise the interests of the Indian ship-owners. Accordingly, the Merchant Shipping (Amendment) Ordinance, 1993 was promulgated by the President on 27th October, 1993 to make the following amendments in the said sections, namely:—

(a) the additional conditions provided in section 21 for a company or a co-operative society to own Indian Ships have been omitted, i.e., holding of minimum share capital of the company having

minimum number of directors in the company who are citizens of India, the requirement that the chairman of the board of directors and the Managing Director, if any, of the company are the citizens of India and in the case of a co-operative society the condition that where any other co-operative society is a member of such cooeprative society, every individual who is a member of such other co-operative society, is a citizen of India;

(b) the present requirement in section 42 for obtaining previous approval of the Central Government for transferring or acquiring any Indian ships or any share or interest therein has now been restricted to the time during which the security of India or of any part of the territory thereof is threatened by war or external aggression;

(c) section 51 has been amended to enable the sole registered mortgagee of a ship or share to recover the amount due under mortgage by selling the mortgaged ship or share without the intervention of the High Court. However, where there are two or more registered mortgagees the existing provisions of section 51 will apply;

(d) section 412 which empowers the Central Government to fix the shipping rates has been omttted as the shipping companies felt that Government control on freight rates for certain cargoes and inordinate delay in fixing those rates lead to a situation where such rates lag behind the cost of operation, make coastal shipping operation unviable and inhibit the development of tonnage catering to coastal shipping.

5. The Bill seeks to replace the aforesaid Ordinance.

JAGDISH TYTLER.

Memorandum explaining the modification contained in the Bill to replace the Merchant Shipping (Amendment) Ordinance, 1993

In clause 3 relating to amendment of section 42 of the Merchant Shipping Act, 1958, it is proposed to clarify that for the transfer of any ship or any share or interest therein the previous approval of the Central Government will be required at any time during which the security of India or of any part thereof is threatened by war or external aggression and during which a Proclamation of Emergency issued under clause (1) of article 352 of the Constitution is in operation.

II

BILL NO. LXXIX OF 1993

THE KALAKSHETRA FOUNDATION BILL, 1993

A Bill to declare Kalakshetra of Madras to be an institution of national importance, to provide for the establishment and incorporation of a Foundation for its administration, to make provisions for further development of Kalakshetra in accordance with the aims and objects for which Kalakshetra was founded and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Kalakshetra Foundation Act, 1993.

(*2*) It shall be deemed to have come into force on the 29th day of September, 1993.

Declaration of Kalakshetra as an institution of national importance.

2. Whereas the objects of the institution known as Kalakshetra an Adyar, Madras in the State of Tamil Nadu, founded by the late Thirumathi Rukmini Devi Arundale, are such as to make the institution one of national importance, it is hereby declared that the institution known as Kalakshetra is an institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(*a*) "Academic Committee" means the Academic Committee constituted under section 15;

(*b*) "appointed day" means the date on which the Foundation is established under sub-section (*1*) of section 8;

(c) "Board of Trustees" means the Board of Trustees managing the affairs of Kalakshetra under the 'scheme writ' approved by the Madras High Court in petition No. 716 of 1985;

(*d*) "constituent units" means the units of Kalakshetra specified in the First Schedule;

(*e*) "Director" means the Director appointed under sub-section (*1*) of section 19;

(*f*) "Finance Committee" means the Finance Committee constituted under sub-section (*1*) of section 17;

(*g*) "Foundation" means the Kalakshetra Foundation established under sub-section (*1*) of section 8;

(*h*) "Fund" means the Fund of the Foundation referred to in section 22;

(*i*) "Governing Board" means the Governing Board constituted under section 11;

(*j*) "Kalakshetra" means the institution known as Kalakshetra founded by the late Thirumathi Rukmini Devi Arundale, situated at Adyar, Madras, and includes its constituent units;

(*k*) "notification" means a notification published in the Official Gazette;

(*l*) "Member" means a Member of the Governing Board and includes the Chairperson thereof;

(*m*) "prescribed" means prescribed by rules made under this Act;

(n) "regulations" means regulations made under section 32;

(o) "Schedule" means a Schedule annexed to this Act;

(*p*) "State Government" means the Government of Tamil Nadu

CHAPTER II

ACQUISITIONS AND TRANSFER OF THE ASSETS AND PTOPERTIES OF KALAKSHETRA

Transfer to and vesting in the Central Government of the assets and properties of Kalakshetra.

4. On the commencement of this Act, the right, title and interest in relation to the assets and properties of Kalakshetra specified in the Second Schedule and vested in the Board of Trustees or any other body, in whatever capacity, shall stand transferred to, and vest in, the Central Government.

General effect of vesting.

5. (*1*) The right, title and interest vested in the Central Government under section 4 shall be deemed to include all the assets, rights, leaseholds, powers, authorities, licences and privileges; all property (movable and immovable) including lands and buildings; musical instruments; equipments used in teaching, training and staging of performing arts; tools and facilities used in arts and crafts; costumes and decorative items; books; stationery, furniture and other equipments used in libraries and laboratories; works of art and artefacts; stores, automobiles and other vehicles; workshops; cash balances, funds including reserve funds, investments and all other rights and interests arising out of such assets and properties as were, immediately before the commencement of this Act in the possession, ownership power or control of the Board of Trustees or any other body, in whatever capacity, and all books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

(*2*) All assets and properties as aforesaid which have vested in the Central Government under section 4 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumberances affecting them or of any attachment, injunction decree or order of any court nor other authority restricting the use of such assets or properties in any manner, or appointing any receiver in respect of the whole or any part of such assets and properties shall be deemed to have been withdrawn.

(*3*) Any licence, permission, authority, concession, facility, privilege, effiliation or any other instrument of similar nature granted to the Board of Trustees or any other body, in whatever capacity, in relation to the assets and properties of Kalakshetra or any of its constituent units which has vested in the Central Government under section 4, at any time before the commencement of this Act and in force immediately before such commencement, shall continue to be in force on and after such commencement in accordance with its tenor in relation to, and for purposes of, such assets and properties or where the direction under section 6 has been issued, the Foundation shall be deemed to be substituted in such licence, permission, authority, concession, facility, privilege, affiliation or other instrument, as if it had been granted to the Foundation and the Foundation shall hold it for the remainder of the period for which the Board of Trustees or any other body in whatever capacity, would have held it under the terms thereof.

(*4*) If, on the commencement of this Act, any suit, appeal or other proceeding of whatever nature in relation to any assets or properties which have vested in the Central Government under section 4, instituted or preferred by the Board of Trustees is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of such transfer and vesting, or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced, by the Central Government or where the right, title and interest in relation to such assets and properties are directed under section 6 to vest in the Foundation, by the Foundation.

Central Government to direct vesting of assets and properties in the foundation.

6. (1) Notwithstanding anything contained in sections 4 and 5, the Central Government shall direct, by notification, that the right title and interest in relation to the assets and properties of Kalakshetra, which had vested in it under section 4, shall vest in the Foundation on such date, not being a date earlier than the date of commencement of this Act, as may be specified in the notification.

(2) On and from the date of vesting of the right, title and interest in relation to the assets and properties of Kalakshetra in the Foundation under sub-section (1),—

(a) the Foundation shall be deemed to have become the owner of the assets and properties; and

(b) the rights and liabilities of the Central Government, in relation to such assets and properties shall be deemed to have become the rights and liabilities respectively of the Foundation.

Duty of persons to deliver and to account for assets, properties, etc.

7. (1) On the vesting in the Central Government of the assets and properties of Kalakshetra, all persons in charge of the management of the said assets and properties immediately before the date of such vesting, shall be bound to deliver to the Central Government or to the Foundation or to such person or body of persons as the Central Government or the Foundation may specify in this behalf, all assets, properties, books of account, registers or other documents in their custody relating to the assets and properties of Kalakshetra.

(2) Every person who has, in his possession or control any assets, properties, books, documents or other papers relating to Kalakshetra which have vested in the Central Government or the Foundation under this Act, and which belong to Kalakshetra or would have so belonged if Kalakshetra had not vested in the Central Government or the Foundation, shall be liable to account for the said assets, properties, books documents and other papers to the Central Government or the Foundation, as the case may be, and shall deliver them up to the Central Government or the Foundation or to such person or body of persons as the Central Government or the Foundation may specify in this behalf.

(3) The Central Government shall take or cause to be taken all necessary steps for securing possession of assets and properties of Kalakshetra which have vested in it under section 4.

CHAPTER III

KALAKSHETRA FOUNDATION

Establishment and incorporation of Foundation.

8. (1) With effect from such date as the Central Government may, by notification, appoint in this behalf there shall be established a Foundation to be called the Kalakshetra Foundation.

(2) The Foundation shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The office of the Foundation shall be located at Thiruvanmiyur, Madras.

The Objects of Foundation.

9. The objects of the Foundation shall be,—

(*i*) to emphasise the essential unity of all true arts;

(*ii*) to work for the recognition of the arts as vital to the individual, national and international growth;

(*iii*) to maintain the highest traditions of art and culture in their pristine purity and in conformity with traditions;

(*iv*) to arrange for the training research, study, teaching and development of art and science, music, dance-drama, fine arts and Bharat-Natyam; and

(*v*) to ensure that the principles of "education without fear" and "art without vulgarity" are adhered to in the activities of the Foundation and not to permit any deviation from these high ideals.

Authorities of the Foundation.

10. (*1*) The Foundation shall consist of the following authorities, namely:—

(*a*) the Governing Board;

(*b*) the Academic Committee; and

(*c*) the Finance Committee.

(2) In the discharge of functions and exercise of powers under this Act, the authorities referred to in sub-section (*1*) shall be guided by the objects specified in section 9.

The Governing Board.

11. The Governing Board shall consist of—

(*a*) a Chairperson, who shall be a person of high eminence in public life, to be appointed by the Central Government;

(*b*) not more than twelve Members to be nominated by the Central Government from amongst persons who—

(*i*) have rendered valuable service to Kalakshetra;

(*ii*) have been connected with, or have knowledge of art, culture, folk arts and crafts;

(*iii*) are eminent artists; and

(*iv*) are patrons of art and culture;

(c) two persons, possessing one or more of the qualifications referred to in sub-clause (*i*) to (*iv*) of clause (b), to be nominated by the State Government;

(*d*) two officers of the Central Government, not below the rank of a Deputy Secretary, to be nominated by that Government, to represent the Ministry of the Central Government dealing with culture *ex officio;*

(*e*) one officer of the State Government, not below the rank of Join Secretary, to be nominated by that Government, to represent the Department of Education of that Government, *ex officio*; and

(*f*) the Director, *ex officio*.

Term of office of Members.

12. (*1*) The term of office of the Members shall be five years from the date of constitution of the Governing Board.

(*2*) If a casual vacancy occurs in the office of a Member nominated under clause (*b*) or clause (*c*) of section 11, whether by reasons of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled by making fresh nomination and the Member so nominated, shall hold office for the remainder of the term of office of the Member in whose place he is so nominated.

(*3*) An outgoing Member shall be eligible for re-nomination.

(*4*) A Member may resign his office by writing under his hand addressed to the Central Government but shall continue in office until his resignation is accepted by that Government.

(*5*) The Member nominated under clauses (*b*) and (*c*) of section 11, shall be entitled to such allowances as may be prescribed.

Meetings of Governing Board.

13. (*1*) The Governing Board shall meet at least twice in a year at Madras at such time may be fixed by the Chairperson of the Governing Board.

(*2*) All decisions at the meeting of the Governing Board shall be taken by majority of the Members present and voting:

Provided that in the case of equality of votes the Chairperson of the Governing Board shall have a casting vote.

(*3*) The Governing Board shall observe such procedure in regard to the transaction of its business at its meetings (including the quorum at its meeting) as may be specified by regulations.

(*4*) No act or proceeding of the Governing Board shall be invalid merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of, the Governing Board; or

(*b*) any defect in the nomination of a person acting as a Member of the Governing Board; or

(*c*) any irregularity in the procedure of the Governing Board not affecting the merits of the case.

Governing Board to be the supreme authority of Foundation.

14. (*1*) The Governing Board shall be the supreme authority of the Foundation and the general superintendence, direction and management of the affairs of the Fundation shall vest in the Governing Board.

(*2*) The Governing Board shall exercise such powers and discharge such functions as may be prescribed.

Academic Committee.

15. (*1*) The Academic Committee shall consist of—

(*a*) the Director;

(*b*) the Heads of the constituent units;

(*c*) three distinguished persons in the field of art and culture including dance, music, folk arts and crafts, to be nominated by the Central Government; and

(*d*) one person to be nominated by the State Government, representing the Department of Education of that Government.

(*2*) The tenure of office and other terms and conditions of the members of the Academic Committee shall be such as may be specified by regulations.

(*3*) The Academic Committee shall observe such procedure in regard to the transaction of its business at its meetings (including the quorum at the meetings) as may be specified by regulations.

Powers and functions of Academic Committee.

16. The Academic Committee shall be responsible for the maintenance of standards of education, training and examination conducted by the constituent units ad shall exercise such other powers and perform such other functions as may be assigned to it, from time to time, by the Governing Board.

Finance Committee.

17. (*1*) The Finance Committee shall consist of—

(*a*) the Financial Adviser to the Government of India or his nominee in the Ministry of the Central Government dealing with culture;

(*b*) an officer of the Central Government, not below the rank of a Deputy Secretary, to be nominated by that Government;

(*c*) an officer of the State Government not below the rank of a Deputy Secretary, to be nominated by that Government, representing the Department of Finance of that Government; and

(*d*) the Director.

(*2*) The Finance Committee shall observe such procedure in regard to the transaction of the business at its meetings as may be specified by regulations.

Powers and functions of Finance Committee.

18. The Finance Committee shall—

(*i*) scrutinise the annual statement of accounts and budget estimates of the Foundation prepared by the Director and make recommendations to the Governing Board;

(*ii*) prescribe the limits of the recurring and non-recurring expenditure of the Foundation for each financial year;

(*iii*) review the financial position of the Foundation from time to time and have an internal audit conducted; and

(*iv*) perform such other functions as may be prescribed.

Appointment and duties of Director.

19. (1) The Central Government shall, by notification, appoint a Director who shall be the principal executive officer of the Foundation and who shall be responsible for the proper administration of the affairs of the Foundation and its day-to-day management and shall exercise such other powers and perform such other duties as may be assigned to him by the Governing Board.

(2) The Director shall prepare the annual statement of accounts and budget estimates of the Foundation for scrutiny by the Finance Committee.

(3) The Director shall be a whole time employee of the Foundation and shall be entitled to such salary and allowances out of the Fund and shall be subject to such conditions of service in respect of leave, pension, provident fund and other matters, as may be prescribed.

Transfer of service of existing employees.

20. On and from the appointed day, every officer or other employee, employed immediately before the appointed day in connection with the affairs of Kalakshetra shall become an officer or other employee of the Foundation and shall hold office by the same tenure and remuneration and on the same terms and conditions as to pension, gratuity and other matters as he would have held under the Board of Trustees or any other body, in whatever capacity, if this Act had not been passed and shall continue to do so, unless and until his employment in the foundation is terminated or until his tenure, remuneration and other terms and conditions are duly altered by the Foundation :

Provided that the tenure, remuneration and other terms and conditions of service of any such officer or employee shall not be altered to his disadvantage without the previous approval of the Central Government.

CHAPTER IV

FINANCE ACCOUNTS AND AUDIT

Grants by Central Government to the Foundation.

21. For the purpose of enabling the Foundation to discharge its functions efficiently under this Act, the Central Government may after due appropriation made by Parliament by law in this behalf, pay to the Foundation in each financial year, such sums of money, on such terms and conditions as that Government may determine, by way of grant, loan or otherwise.

Fund of the Foundation.

22. (1) The Foundation shall have its own Fund; and all sums which may, from time to time, be paid to it by the Central Government and all the receipts of the Foundation (including any sum which the State Government or any other authority or person may pay to the Foundation) shall be credited to the Fund and all payments by the Foundation shall be made therefrom.

(2) All moneys belonging to the Fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Governing Board.

(3) The Foundation may spend such sums as it may think fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the Fund of the Foundation.

Budget.

23. The Foundation shall prepare, in such form and at such time each year, as may be prescribed, the budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

Accounts and audit of the Foundation.

24. (1) The Foundation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be approved by the Comptroller and Auditor-General of India.

(2) The accounts of the Foundation shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Foundation to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Foundation shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Foundation.

(4) The accounts of the Foundation as certified by the Comptroller and Auditor-General of India or any person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Duty to furnish returns, annual reports, etc.

25. (1) The Foundation shall furnish to the Central Government at such time and in such form and in such manner, as may be prescribed, or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the objects of the Foundation, as the Central Government may, from time to time, direct.

(2) Without prejudice to the provisions of sub-section (1), the Foundation shall, as soon as possible after the end of each financial year, submit to the Central Government an annual report in such form and before such date as may be prescribed, giving a true and full account of its activities and programmes during the previous year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be, after it is received, before each House of Parliament.

CHAPTER V

MISCELLANEOUS

Prior approval of the Central Government for alienation of property.

26. The Foundation shall not, except with the previous approval of the Central Government, sell or otherwise dispose of any property vested in the Foundation.

Power of Central Government to give directions to the Foundation.

27. (*1*) The Central Government may, if it is satisfied that it is necessary so to do in the public interest, issue, for reasons to be recorded and communicated to the Foundation, such directions as it thinks fit.

(*2*) Without prejudice to the generality of the foregoing powers, such directions may include directions requiring the Foundation—

(*a*) to make or amend any regulation within such period as may be specified in the direction; and

(*b*) to give priority to the work undertaken or to be undertaken by the Foundation in such manner as the Central Government may think fit to specify in this behalf.

(*3*) Any direction issued under this section shall have effect notwithstanding anything contained in any law for the time being in force or in the memorandum or regulations of the Kalakshetra Society.

Dissolution of the Foundation.

28. (*1*) The Central Government may, by notification and for reasons to be specified therein, dissolve the Foundation from such date and for such period as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Foundation to make representation against the proposed dissolution.

(*2*) When the Foundation is dissolved under sub-section (*1*),—

(*a*) all members of the Governing Board, Academic Committee and the Finance Committee, notwithstanding that the terms of their office had not expired, shall, from the date of dissolution, vacate their offices as such members;

(*b*) all powers and duties of the Governing Board, Academic Committee and the Finance Committee shall, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in this behalf;

(*c*) all properties and assets vested in the Foundation shall, during the period of dissolution, vest in the Central Government; and

(*d*) as soon as the period of dissolution expires, the Foundation shall be reconstituted in accordance with the provisions of this Act.

Protection of action taken in good faith.

29. No suit prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the Foundation or Member or Director or any officer of the Foundation for anything which is in good faith done or intended to be done under this Act.

Indemnity.

30. Every Member of the Governing Board, Academic Committee and the Finance Committee and the Director of the Foundation shall be indemnified by the Foundation against all losses and expenses incurred by them in relation to the discharge of their duties, except such as are caused by their wilful act or default.

Power to make rules.

31. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the allowances to the Members under sub-section (5) of section 12;

(*b*) the powers which the Governing Board shall exercise and the functions which it shall discharge under sub-section (2) of section 14;

(*c*) functions to be performed by the Finance Committee, under clause (*iv*) of section 18;

(*d*) the salary and allowances and other terms and conditions of service of the Director under sub-section (3) of section 19;

(*e*) the form and the manner in which the budget is to be prepared by the Governing Board under section 23;

(*f*) the form and the manner in which, and the time at which, the returns, statements and the annual report shall be prepared under section 25;

(*g*) any other matter which has to be, or may be, prescribed.

Power to make regulations.

32. (1) The Foundation may make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to discharge its functions under this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the management of the properties and funds, affairs and works of the Foundation;

(*b*) the procedure in regard to transaction of business of the Governing Board and the Academic Committee (including quorum at their meetings) and the transaction of business of the Finance Committee under sub-section (3) of section 13, sub-section (3) of section 15 and sub-section (2) of section 17;

(*c*) creation or abolition of posts and the procedure for appointment of the professional, administrative and ministerial staff;

(*d*) the tenure of office and other terms and conditions of the members of the Academic Committee under sub-section (2) of section 15; and

(*e*) the maintenance of accounts, registers and other records of the Foundation.

(*3*) No regulation made by the Foundation shall have effect until it has been approved by the Central Government and published in the Official Gazette, and the Central Government, in approving the regulation, may make changes therein which appear to it to be necessary.

Rules and regulations to be laid before Parliament.

33. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be: so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power to remove difficulties.

34. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(*2*) Every order made under this section shall be laid as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (*1*) The Kalakshetra Foundation Ordinance, 1993 is hereby repealed. Ord. 31 of 1993.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE FIRST SCHEDULE

[*See* clause (*d*) of section 3]

1. Kalakshetra College of Fine Arts.
2. Craft Education and Research Centre consisting of—
 (*i*) a Weaving Department, and
 (*ii*) a Kalamkari unit.
3. Besant Arundale Theosophical Senior Secondary School.
4. Besant Theosophical High School.
5. Besant Cultural Centre Hostel.

THE SECOND SCHEDULE

(*See* section 4)

PART A

Sl. No.	Document No.	Date	Village	Taluk	District	Survey No.	Paimash No.	Extent
1.	1541	16-8-49	Thiruvanmiyur	Saidapet	Chinglepet	..	1225/A 1228	0-3-8 1-8-4 1-11-12 Cawnies
2.	1542	16-8-49	Do.	Do.	Do.	..	1227/E	0-9-0 Cawnies 0-75 Cents
3.	1543	16-8-49	Do.	Do.	Do.	..	..	0-3-12 0-6-2
4.	768	12-5-54	Do.	Do.	Do.	..	1219 1224	0-3-12 0-6-2
	(In rectification of Sl. No 3)							
5.	1544	16-8-49	Do.	Do.	Do.	..	947-C 1226-C 1226-D	0-11-0 0-6-0 0-12-0 1-13-0
6.	1605	25-8-49	Do.	Do.	Do.	..	1228 B 1226 A 1226 C/1	0-6-10 Cawnies 0-55 Cents
7.	1960	13-10-49	Do.	Do.	Do.	..	1227/D	0-3-12 Cawnies
8.	1984	15-10-49	Do.	Do.	Do.	..	1227/F	0-5-8 Cawnies
9.	1324	26-11-49	Do.	Do.	Do.	O.S. No. 327 R.S. No. 528	House and Ground No. 18, Andiappa Gramani Street, Royapuram-13.	1491 Sq. ft.
10.	1324	26-11-49	Do.	Do.	Do.	..	1229/C	0-10-0 Cawnies -1 acre 14 Cents
11.	2752	11-12-50	Do.	Do.	Do.	..	1219/A-3 1224/D	0-3-12 Cawnies 55 Cents
12.	2759	21-12-50	Do.	Do.	Do.	..	1219	0-3-12 Cawnies -50 Cents

Sl. No.	Document No.	Date	Village	Taluk	District	Survey No.	Paimash No.	Extent
13.	1865	2-9-52	Thiruvan-miyur	Saidapet	Chinglepet	..	1228	0-3-8 1-8-4 1-11-12 -1 acre 98 cents
14.	621	27-3-59	Do.	Do.	Do.	..	973-B 972 961-C/1 961-L 964	0-7-0 5-7-0 0-3-4 0-9-10 2-5-2 9-0-0 Cawnies -12 acres
15.	769	12-5-54	Do.	Do.	Do.	..	1219 1224	50 Cents
16.	2068	24-8-56	Do.	Do.	Do.	..	979-C	1-11-14 Cawnies
17.	2151	3-9-56	Do.	Do.	Do.	..	974/A	2-0-0 Cawnies -2 acres 66 cents
18.	863	April, 1960	Do.	Do.	Do.	158/1	882-B 882-D 886-D 957-A 958-A 963-A 964 886-C 964 Part	
						170/1	964 Part 975 C Part	21 acres 6 cents
						170/3	975J 973A 973A 1 973A 2 975C Part 975G 975H 975-I 975M 975G 975H 2 975K	
		6-2-63	Do.	Do.	Do.	166/2	957-B 962 963-B 966 968-C	22 acres approximately
		22-3-63	Do.	Do.	Do.	161/2	857 882-C (Part) 877-A 940 941 942 955-A 965 961H	27 acres 74 cents approximately
21.	1481	April, 1968	Do.	Do.	Do.	178/3 (Part) 178/8	1212 1214 1184 1185 1220	4 grounds 1988 Sq. ft.
22.	1482	Aril, 1968	Do.	Do.	Do.	178/3 178/8	D o	8 grounds 96 Sq. ft.

All the buildings on the above lands, institutions, all assets whatsoever including Bank balances and cash of the Kalakshetra.

PART B

Sl. No.	Document No.	Year	Village	Taluk	District	Survey No.	Paimash No.	Extent
1.	448	1881	Thiruvanmiyur	Saidapet	Chinglepet	..	977, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219 and 1221	15-7-4 Cawnies
2.	1224	1908	Do.	Do.	Do.	..	968C	2-0-8 Cawnies
3.	2382	1913	Do.	Do.	Do.	..	967, 968C	2-0-8 Cawnies
4.	2559	1913	Do.	Do.	Do.	..	967, 968	2-0-8 Cawnies
5.	4544	1919	Do.	Do.	Do.	..	532D, 533, 534	3-7-8 Cawnies
6.	2642	1920	Do.	Do.	Do.	..	967, 968, 968C	4-1-0 Cawnies
7.	1325	1927	Do.	Do.	Do.	..	533, 534, 532	3-7-8 Cawnies
8.	1966	1940	Do.	Do.	Do.	..	976A, 971B	2-2-0 Cawnies
9.	2056	1941	Do.	Do.	Do.	..	984	0-4-6 Cawnies
10.	2194	1941	Do.	Do.	Do.	..	984	0-4-6 Cawnies
11.	532	1943	Do.	Do.	Do.	..	976A, 971B	2-2-0 Cawnies
12.	1471	1943	Do.	Do.	Do.	..	976A, 971B	6-2-0 Cawnies
13.	1380	1937	Do.	Do.	Do.	..	191	1-4-0 Cawnies
14.	1381	1937	Do.	Do.	Do.	..	191	1-4-0 Cawnies
15.	1032	1945	Do.	Do.	Do.	..	532, 534	3-7-8 Cawnies
16.	1744	1929						
	(Parent document of Item 15)							
17.	1134	1945	Do.	Do.	Do.	..	984, 984	0-4-6 Cawnies 0-4-6 Cawnies
18.	1224	1945	Do.	Do.	Do.	..	971B, 976A	6-2-0 Cawnies
19.	1268	1945	Do.	Do.	Do.	..	970B, 970D	2-8-0 Cawnies
20.	1598	1945	Do.	Do.	Do.	..	967, 968, 968C	4-1-0 Cawnies
21.	1941	1945	Do.	Do.	Do.	..	1226A/1 1226B/1	0-5-15 Cawnies
22.	1942	1945	Do.	Do.	Do.	..	1226B/2	0-15-13 Cawnies
23.	1988	1945	Do.	Do.	Do.	..	976B, 979A	2-6-0 Cawnies
24.	353	1947	Do.	Do.	Do.	..	976A/1	3-0-0 Cawnies

Sl. No.	Document No.	Year	Village	Taluk	District	Survey No.	Paimash No.	Extent
25.	2275	1947	Thiruvanmi-yur	Saidapet	Chinglepet	O.S. No. 267 268 269 270 270A 271 278 279	 0-0-12 	0-5-12 0-15-6 3-10-2 0-0-12 2-4-0 1-4-0 1-4-0 1-4-0 1-0-0 4-15-0 1-0-0 0-3-0
							1226, 1226A, 1226B, 967, 968A, 968C, 970B, 970D, 971B, 976A, 532D, 533; 579A.	0-1-12 0-5-13 2-1-10 0-5-9 2-9-0 0-0-6 0-2-0 1-10-4 2-4-0 0-5-10 2-0-8
26.	3776	1947	Do.	Do	Do.	..	1214A, 1217A, 1218A, 1218B, 1212, 1213, 1215, 1216, 1221	3-9-6 Cawnies 6-6-10 Cawnies
27.	3777	1947	Do.	Do.	Do.	..	1212, 1213, 1215, 1216, 1214A, 1217, 1218A, 1219B,	6-6-10 Cawnies 3-9-6 Cawnies
28.			Sowcarpet, Registration District of Madras		Do.	(O.S. No. 695, 742) 10168/2 and 10170	House No. 2/500 Mint Street, P.T. Ms.	1,397 Sq. ft.
			North Madras	Madras	Do.	(O.S. No. 2506) R.S. No. 3376	House No. 117, Lingi Chetty St., G.T. Ms.	1,331 Sq. ft.
29.	1606	1950	Thiruvanmiyur	Saidapet	Do.	..	1214, 1217, 1218, 1219B	2-9-0 Cawnies
30.	909	1961	Do.	Do.	Do.	..	500 500	0-8-0 Cawnies 3 Grounds 1,270 Sq. ft.

All the buildings on the above lands, institutions, and all the assets whatsoever including Bank balances and cash of the Kalakshetra and Besant Centenary Trust/Hostel in the City of Madras.

STATEMENT OF OBJECTS AND REASONS

Kalakshetra, Madras which has become a renowned institution of international repute in the field of performing Arts, was initially established by its Founder, the late Rukmani Devi Arundale as a registerd society under the Societies Registration Act, 1860 and later got re-gistered under the Tamil Nadu Registration of Societies Act, 1975. Over the recent past, especially after the death of its Founder and other Senior Members of its Faculty and Management, the institution has been beset with administrative, financial and academic problems. Some of these have also led to litigation.

2. During the year 1991-92, the management of Kalakhetra had been making repeated requests to the Government of India to declare Kalakshetra along with its constituent units as an institution of national importance. While making the request, the Kalakshetra had the following considerations in view, namely:—

(i) the ideals of the Founder should be kept alive;

(ii) continuity of the standards of purity and excellence in the various forms of the arts and fine arts established by Kalakshetra should be maintained; and

(iii) the institution should be put on a firm foundation to ensure its future activities.

3. Need for urgent action has been further underscored by financial and management problems confronting Kalaskhetra. The income from the grants and fees had become highly inadequate to continue its activities and many units had become under-staffed as a result. The salaries of the members of the Faculty and staff were also low when compared to Central|State Government employees. Many of the buildings needed urgent renovation. There has been acute shortage of equipments and other infrastructure. In essence, the institution lacked financial and administrative management and was also lacking leadership required of an institution of its stature.

4. Considering the international reputation of the institution and keeping in view its great artistic heritage, the President promulgated an Ordinance on the 29th September, 1993 to declare Kalakshetra an institution of national importance and also to establish and incorporate a Foundation for its better administration and further development.

5. The Ordinance, apart from certain standard provisions incorporated in enactments for setting up statutory bodies, *inter alia* included the following provisions:—

(a) declaration of Kalakshetra as an institution of national importance;

(b) vesting of all properties and assets of Kalakshetra, presently cnder the management and control of the Board of Trustees or any other person in whatever capacity, in the Central Government and later in a Foundation to be constituted under the Ordinance.

(c) the constitution immediately of a Kalakshetra Foundation which will be a body corporate with perpetual succession and common seal consisting of a Governing Board, an Academic Committee and a Finance Committee;

(d) the setting up of a Governing Board consisting of a Chairperson, who will be a person of high eminence in public life, and not more than 12 members from amongst persons who have rendered valuable service to Kalakshetra or have been connected with art, culture, folk arts and crafts, and who are eminent artists or patrons of art and culture as well as officers from the Central and State Governments; and

(e) the setting up of an Academic Committee and a Finance Committee to take care of the academic and financial matters of Kalakshetra.

6. The Bill seeks to replace the said Ordinance.

K. M. SELJA.

Notes on clauses

Clause 2 seeks to declare the institution known as Kalakshetra of Madras, as an institution of national importance.

Clause 3 provides for definitions of various terms and expressions used in the Bill.

Clause 4 provides for transfer to and vesting in the Central Government of assets and properties of Kalakshetra.

Clause 5 seeks to provide general effect of vesting the right, title and interest in the Central Government.

Clause 6 grants power to the Central Government to direct vesting of assets and properties in the Kalakshetra Foundation.

Clause 7 provides for duty of persons to deliver and to account for assets, properties, etc., to the Central Government or to the Foundation; as the case may be.

Clause 8 provides for the establishment and in corporation of the Kalakshetra Foundation which shall be a body corporate having perpetual succession and a common seal. Its office shall be located at Thiruvanmiyur, Madras.

Clause 9 enumerates the objects of the Foundation.

Clause 10 seeks to provide for the authorities of the Foundation, i.e. the Governing Board, the Academic Committee and the Finance Committee.

Clause 11 provides for the constitution of the Governing Board of the Foundation.

Clause 12 provides for the terms of office of the Members of the Governing Board and filling up of casual vacancies.

Clause 13 provides for the meeting of the Governing Board, and the procedure in regard to transaction of business at its meetings specified therein.

Clause 14 provides that the Governing Board shall be the supreme authority of the Foundation.

Clause 15 provides for the constitution of the Academic Committee of the Foundation and the terms of office and other terms and conditions of its members.

Clause 16 provides for the powers and functions of the Academic Committee of the Foundation.

Clause 17 provides for the constitution of the Finance Committee and the procedure for transaction of business at its meetings.

Clause 18 seeks to provide for the powers and functions of the Finance Committee of the Foundation.

Clause 19 provides for the appointment, terms and conditions of service of the Director of the Foundation.

Clause 20 provides for the transfer of services of the existing employees to become officers and other employees of the Foundation.

Clause 21 provides about the grants by the Central Government to the Foundation in each financial year by way of grant, loan or otherwise.

Clause 22 provides for creation of a Fund of the Foundation.

Clause 23 envisages the form, manner and time of the preparation of the annual budget of the Foundation.

Clause 24 provides for the maintenance of proper accounts, preparation of annual statement of accounts and audit report of the Foundation.

Clause 25 imposes a duty on the Foundation to furnish the returns, statements, annual reports, etc., to the Central Government, a copy of which shall be laid before each House of Parliament.

Clause 26 provides for prior approval of the Central Government for alienation of the property of the Foundation.

Clause 27 gives power to the Central Government to give directions to the Foundation, when necessary so to do, in public interest.

Clause 28 gives power to the Central Government for dissolution of the Foundation and the consequences thereof.

Clause 29 provides for protection of the Central Government or any officer of that Government or the Foundation or the Member or director or any officer of the Foundation for action taken in good faith.

Clause 30 seeks to indemnify members of the Governing Board and members of the Committees etc., against all losses and expenses incurred by them in relation to the discharge of their duties.

Clause 31 provides for the power to make rules for carrying out the provisions of the Act.

Clause 32 gives power to the Foundation to make regulations for enabling it to discharge its functions under the Act.

Clause 33 provides that rules and regulations made under the Act shall be laid before each House of Parliament.

Clause 34 gives power to the Central Government to remove difficulties within a period of two years from the commencement of the Act.

Clause 35 provides for the repeal of the Ordinance and saves the action taken thereunder.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 31 of the Bill empowers the Central Government, by notification in the Official Gazette, to make rules for carrying out the provisions of the Act. Sub-clause (2) of this clause specifies the matters in respect of which rules may be made. Such matters, *inter alia*, relating to, the allowances to the members of the Governing Board under sub-clause (5) of clause 12; the powers and functions which the Governing Board shall exercise and discharge under sub-clause (2) of clause 14; the functions of the Finance Committee under clause 18; the salary, allowances and other terms and conditions of service of the Director under sub-clause (3) of clause 19; the form and the manner in which the budget is to be approved under clause 23 and other matters which are required to be prescribed by rules under the Act.

2. Clause 32 of the Bill empowers the Foundation to make regulations, not inconsistent with the Act and the rules made thereunder, for enabling it to discharge its functions under the Act. Sub-clause (2) of the said clause enumerates matters with respect to which the Foundation may make regulations. These regulations relate to the management of the properties, funds, affairs and works of the Foundation; the procedure in regard to the transaction of business of the Governing Board, the Academic Committee and the Finance Committee under sub-clause (2) of clause 13, sub-clause (3) of clause 15 and sub-clause (2) of clause 17 respectively; creation or abolition of posts and the procedure for appointment of the administrative and ministerial staff; the tenure of office and other terms and conditions of the Members of the Academic Committee under sub-clause (2) of clause 15 and the maintenance of accounts, registers and other records of the Foundation.

3. Clause 34 of the Bill empowers the Central Government to remove by order any difficulty which may arise in giving effect to the provisions of the Act. This is by way of abundant caution and for covering difficulties which it is not possible to visualize. It has, however, been provided that no such order shall be made after the expiry of a period of two years from the commencement of the Act. It has also been provided that a copy of every such order made shall be laid before each House of Parliament.

4. The matters with respect of which rules and regulations may be made under the Act are of administrative detail or procedure and the delegation of legislative power is, therefore, of a normal character.

V. S. RAMA DEVI,
Secretary-General.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1994.